

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

RUSSELL SIFFORD,	§	No. 5:11-cv-00195
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
PORTFOLIO RECOVERY ASSOCIATES,	§	
LLC,	§	
	§	
Defendant.	§	

PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, RUSSELL SIFFORD (Plaintiff), through his attorneys, KROHN & MOSS, LTD., alleges the following against Defendant, PORTFOLIO RECOVERY ASSOCIATES, LLC (Defendant):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing in Center Point, Kerr County, Texas.
7. Plaintiff is a consumer as that term is defined by 15 *U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 *U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by 15 *U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a collection agency with a business office in Norfolk, Virginia.
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor, Wells Fargo Bank, with an account number ending in 0001 (Defendant's File Number 3440390111012).
12. Plaintiff's alleged debt owed to Wells Fargo Bank arises from transactions for personal, family, and household purposes.
13. On November 17, 2010, Plaintiff's counsel faxed a cease and desist and a notice of representation letter to Defendant (Plaintiff's counsel's letter to Defendant and fax confirmation are attached as Group Exhibit A).
14. Despite receiving Plaintiff's counsel's letter (Exhibit A), Defendant communicated with Plaintiff after November 17, 2010, in an attempt to collect a debt (Defendant's letter to Plaintiff dated January 22, 2011, is attached as Exhibit B).

COUNT I

PLAINTIFF'S COMPLAINT

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(2) of the FDCPA by communicating with Plaintiff even though Defendant knew Plaintiff was represented by an attorney.
- b. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter.

WHEREFORE, Plaintiff, RUSSELL SIFFORD, respectfully requests judgment be entered against Defendant, PORTFOLIO RECOVERY ASSOCIATES, LLC, for the following:

16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
18. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, RUSSELL SIFFORD, demands a jury trial in this case.

Dated: March 8, 2011

RESPECTFULLY SUBMITTED,

KROHN & MOSS, LTD.

By: /s/ Michael S. Agruss

Michael S. Agruss (CA SBN: 259567)

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Attorneys for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

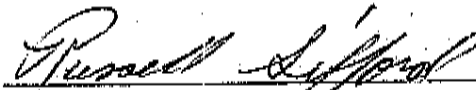
Plaintiff, RUSSELL SIFFORD, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, RUSSELL SIFFORD, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

3-8-2011

Date


RUSSELL SIFFORD